

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

KURTIS MONSCHKE,

Petitioner,

v.

JAMES N. CROSS and ELDON VAIL,

Respondents.

No. C11-5276 RBL/KLS

REPORT AND RECOMMENDATION
Noted For: May 13, 2011

This case has been referred to Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. Petitioner Kurtis Monschke is a Washington state inmate at the Hazelton Penitentiary in Bruceton Mills, West Virginia. Mr. Monschke filed his petition for writ of habeas corpus and an application to proceed *in forma pauperis* on April 12, 2011. ECF Nos. 1 and 2. On the same day, Mr. Monschke paid the \$5.00 filing fee (Receipt No. T-8596). ECF No. 1. Because Mr. Monschke has paid the filing fee, the Court should deny the application to proceed *in forma pauperis*.

DISCUSSION

A district court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigency. See 28 U.S.C. § 1915(a). However, the court has broad discretion in denying an application to proceed *in forma pauperis*. *Weller v. Dickson*, 314 F.2d 598 (9th Cir. 1963), cert. denied, 375 U.S. 845 (1963).

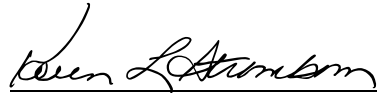
Mr. Monschke paid the \$5.00 filing fee on April 12, 2011. Therefore, his application to proceed *in forma pauperis* is moot.

CONCLUSION

Because Mr. Monschke has paid the filing fee, the undersigned recommends that the Court deny his application to proceed *in forma pauperis* (ECF No. 2).

Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure (Fed. R. Civ. P.), Petitioner shall have fourteen (14) days from service of this Report and Recommendation to file written objections thereto. See also Fed. R. Civ. P. 6. Failure to file objections will result in a waiver of those objections for purposes of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the clerk is directed set this matter for consideration on **May 13, 2011**, as noted in the caption.

DATED this 19th day of April, 2011.



Karen L. Strombom
United States Magistrate Judge